



Communiqué

To: Board members, superintendents, treasurers, business managers and OCSBA members
From: Richard J. Dickinson, general counsel
Re: **Job applications**
Date: March 24, 2005

A recent decision by the U.S. Sixth Circuit Court of Appeals may have a significant beneficial impact on employers, who may be able to significantly shorten the time during which employees may file employment-related claims against them. The decision came in a case known as *Thurman v. DaimlerChrysler, Inc.*, decided by the court on Nov. 19, 2004 [(C.A.6, 2004), 397 F3d 352]. The case resulted from a claim by an employee that she had been subjected to sex and race discrimination by her employer and a coworker. Several other employment-related claims also were part of the lawsuit.

DaimlerChrysler moved to have the federal district court dismiss the claims against it and the coworker based on a clause in the job application which the employee had completed prior to being hired. That clause stated:

I agree that any claim or lawsuit relating to my service with Chrysler Corporation or any of its subsidiaries must be filed no more than six (6) months after the date of the employment action that is the subject of the claim or lawsuit. I waive any statute of limitations to the contrary.

That clause was printed in the same size font as all other portions of the application. It was preceded by a statement that read “**READ CAREFULLY BEFORE SIGNING,**” which was both capitalized and in bold print. The application contained this additional statement:

This application will be considered active for twelve (12) months from the date filed. If you are hired, it becomes part of your official employment record.

The district court dismissed the claims against both the employer and coworker because the lawsuit was filed after expiration of the six-month period referred to in the job application. The court did so despite a statute of limitations that was longer than six months and within whose time constraints the complaint had been filed. On appeal to the U.S. Sixth Circuit Court of Appeals, that court upheld the dismissal of the claims against the employer, but reinstated those against the coworker.

This decision potentially offers employers the opportunity to shorten the period of time during which employees or former employees may file employment-related claims against the employer. By using the language of the employment application in this case, it appears that employers may reduce the statutory time period for filing employment-related claims from the statutory figure to a period of only six months.

OSBA's purpose in sending this *Communiqué* is to bring this decision to the attention of school districts and their attorneys, not to suggest that every school district adopt such language in their job applications. Rather, OSBA recommends that you discuss this case and its implications for your school district with your board's attorney. If you have questions about this matter, please contact your board counsel or OSBA's Division of Legal Services.

The information in this Communiqué is intended as general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.